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By: **Delegate Menes (Special Committee on Drug and Alcohol Abuse) and  
Delegates Anderson and Barkley**

Introduced and read first time: January 28, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Driving While Impaired by Controlled Dangerous Substance**  
3 **- Penalties**

4 FOR the purpose of requiring the Motor Vehicle Administration to suspend for a  
5 certain period of time the driver's license of a person who is convicted of driving  
6 while impaired by a controlled dangerous substance more than once within a  
7 certain period of time; providing certain procedures for the suspension of the  
8 driver's license of a certain person; providing that a certain suspension be  
9 concurrent with certain other suspensions; altering certain penalties for a  
10 conviction for a violation of driving while impaired by a controlled dangerous  
11 substance; requiring a person convicted of driving while impaired by a controlled  
12 dangerous substance to undergo a certain assessment and participate in a  
13 certain program; making stylistic changes; and generally relating to the  
14 penalties for a conviction of driving while impaired by a controlled dangerous  
15 substance.

16 BY adding to  
17 Article - Transportation  
18 Section 16-205(e-1)  
19 Annotated Code of Maryland  
20 (2002 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - Transportation  
23 Section 27-101(c), (f), (j), (k), and (q)  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume and 2003 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Transportation**

2 16-205.

3 (E-1) (1) IN THIS SUBSECTION, "MOTOR VEHICLE" DOES NOT INCLUDE A  
4 COMMERCIAL MOTOR VEHICLE.

5 (2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE  
6 ADMINISTRATION SHALL SUSPEND FOR 1 YEAR THE LICENSE OF A PERSON WHO IS  
7 CONVICTED OF A VIOLATION OF § 21-902(D) OF THIS ARTICLE MORE THAN ONCE  
8 WITHIN A 5-YEAR PERIOD.

9 (3) ON RECEIVING A RECORD OF A CONVICTION OF A PERSON FOR A  
10 VIOLATION OF § 21-902(D) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR  
11 PERIOD, THE ADMINISTRATION SHALL ISSUE TO THE PERSON A NOTICE OF  
12 SUSPENSION OF THE PERSON'S LICENSE THAT:

13 (I) STATES THAT THE PERSON'S LICENSE SHALL BE SUSPENDED  
14 FOR 1 YEAR; AND

15 (II) ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING  
16 UNDER THIS PARAGRAPH.

17 (4) AFTER NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE  
18 ADMINISTRATION SHALL SUSPEND A PERSON'S LICENSE UNDER THIS SUBSECTION  
19 IF:

20 (I) THE PERSON DOES NOT REQUEST A HEARING;

21 (II) AFTER A HEARING, THE ADMINISTRATION FINDS THAT THE  
22 PERSON WAS CONVICTED OF MORE THAN ONE VIOLATION OF § 21-902(D) OF THIS  
23 ARTICLE WITHIN A 5-YEAR PERIOD; OR

24 (III) THE PERSON FAILS TO APPEAR FOR A HEARING REQUESTED BY  
25 THE PERSON.

26 (5) EACH NOTICE AND HEARING UNDER THIS SUBSECTION SHALL MEET  
27 THE REQUIREMENTS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

28 (6) THIS SUBSECTION DOES NOT LIMIT ANY PROVISION OF THIS  
29 ARTICLE THAT ALLOWS OR REQUIRES THE ADMINISTRATION TO REVOKE OR  
30 SUSPEND A LICENSE OF A PERSON.

31 (7) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL BE  
32 CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE  
33 ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION  
34 FOR A VIOLATION OF § 21-902(D) OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.

1 27-101.

2 (c) Any person who is convicted of a violation of any of the provisions of the  
3 following sections of this article is subject to a fine of not more than \$500 or  
4 imprisonment for not more than 2 months or both:

- 5 (1) § 12-301(c), (d), (e), or (f) ("Special identification cards: Fraud and  
6 misrepresentation prohibited");
- 7 (2) § 14-102 ("Taking or driving vehicle without consent of owner");
- 8 (3) § 14-104 ("Damaging or tampering with vehicle");
- 9 (4) § 14-107 ("Removed, falsified, or unauthorized identification number  
10 or registration card or plate");
- 11 (5) § 14-110 ("Altered or forged documents and plates");
- 12 (6) § 15-312 ("Dealers: Prohibited acts - Vehicle sales transactions");
- 13 (7) § 15-313 ("Dealers: Prohibited acts - Advertising practices");
- 14 (8) § 15-314 ("Dealers: Prohibited acts - Violation of licensing laws");
- 15 (9) § 15-411 ("Vehicle salesmen: Prohibited acts");
- 16 (10) § 15-502(c) ("Storage of certain vehicles by unlicensed persons  
17 prohibited");
- 18 (11) § 16-113(j) ("Violation of alcohol restriction ordered by a court");
- 19 (12) § 16-301 ("Unlawful application for or use of license");
- 20 (13) § 16-303(h) ("Licenses suspended under certain provisions of Code");
- 21 (14) § 16-303(i) ("Licenses suspended under certain provisions of the  
22 traffic laws or regulations of another state");
- 23 (15) § 18-106 ("Unauthorized use of rented motor vehicle");
- 24 (16) § 20-103 ("Driver to remain at scene - Accidents resulting only in  
25 damage to attended vehicle or property");
- 26 (17) § 20-104 ("Duty to give information and render aid");
- 27 (18) § 20-105 ("Duty on striking unattended vehicle or other property");
- 28 (19) § 20-108 ("False reports prohibited");
- 29 (20) § 21-206 ("Interference with traffic control devices or railroad signs  
30 and signals");

1 (21) As to a pedestrian in a marked crosswalk, § 21-502(a) ("Pedestrians'  
2 right-of-way in crosswalks: In general");

3 (22) As to another vehicle stopped at a marked crosswalk, § 21-502(c)  
4 ("Passing of vehicle stopped for pedestrian prohibited");

5 (23) Except as provided in subsections (f) and (q) of this section, §  
6 21-902(b) ("Driving while impaired by alcohol");

7 (24) Except as provided in subsections (f) and (q) of this section, §  
8 21-902(c) ("Driving while impaired by drugs or drugs and alcohol");

9 (25) [Except as provided in subsections (f) and (q) of this section, §  
10 21-902(d) ("Driving while impaired by controlled dangerous substance");

11 (26)] § 21-902.1 ("Driving within 12 hours after arrest"); or

12 [(27)] (26) § 27-107(d), (e), (f), or (g) ("Prohibited acts - Ignition interlock  
13 systems").

14 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not  
15 exceeding 1 year or both, if the person is convicted of:

16 (i) A violation of § 14-103 of this article ("Possession of motor  
17 vehicle master key"); or

18 (ii) A second or subsequent violation of:

19 1. § 16-101 of this article ("Drivers must be licensed"); or

20 2. Except as provided in subsection (q) of this section:

21 A. § 21-902(b) of this article ("Driving while impaired by  
22 alcohol"); OR

23 B. § 21-902(c) of this article ("Driving while impaired by  
24 drugs or drugs and alcohol"); or

25 C. § 21-902(d) of this article ("Driving while impaired by a  
26 controlled dangerous substance").

27 (2) Except as provided in subsection (q) of this section, for the purpose of  
28 second or subsequent offender penalties for a violation of § 21-902(b) of this article  
29 provided under paragraph (1) of this subsection, a prior conviction of [§ 21-902(a), §  
30 21-902(c), or § 21-902(d)] § 21-902(A), (C), OR (D) of this article shall be considered a  
31 conviction of § 21-902(b) of this article.

32 (3) Except as provided in subsection (q) of this section, for the purpose of  
33 second or subsequent offender penalties for a violation of § 21-902(c) of this article  
34 provided under paragraph (1) of this subsection, a prior conviction of [§ 21-902(a), §

1 21-902(b), or § 21-902(d)] § 21-902(A), (C), OR (D) of this article shall be considered a  
2 conviction of § 21-902(c) of this article.

3           [(4)       Except as provided in subsection (q) of this section, for the purpose of  
4 second or subsequent offender penalties for a violation of § 21-902(d) of this article  
5 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §  
6 21-902(b), or § 21-902(c) of this article shall be considered a conviction of § 21-902(d)  
7 of this article.]

8       (j)       (1)       In this subsection, "imprisonment" includes confinement in:

9                       (i)       An inpatient rehabilitation or treatment center; or

10                      (ii)       Home detention that includes electronic monitoring for the  
11 purpose of participating in an alcohol treatment program that is:

12                                   1.       Certified by the Department of Health and Mental  
13 Hygiene;

14                                   2.       Certified by an agency in an adjacent state that has  
15 powers and duties similar to the Department of Health and Mental Hygiene; or

16                                   3.       Approved by the court.

17                      (2)       (I)       A person who is convicted of a violation of § 21-902(a) of this  
18 article within 5 years after a prior conviction under that subsection is subject to a  
19 mandatory minimum penalty of imprisonment for not less than 5 days.

20                      [(3)]       (II)       A person who is convicted of a third or subsequent offense under  
21 § 21-902(a) of this article within 5 years is subject to a mandatory minimum penalty  
22 of imprisonment for not less than 10 days.

23                      (3)       (I)       A PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-902(D)  
24 OF THIS ARTICLE WITHIN 5 YEARS AFTER A PRIOR CONVICTION UNDER THAT  
25 SUBSECTION IS SUBJECT TO A MANDATORY MINIMUM PENALTY OF IMPRISONMENT  
26 FOR NOT LESS THAN 5 DAYS.

27                      (II)       A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT  
28 OFFENSE UNDER § 21-902(D) OF THIS ARTICLE WITHIN 5 YEARS IS SUBJECT TO A  
29 MANDATORY MINIMUM PENALTY OF IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

30                      (4)       A person who is convicted of an offense under § 21-902(a) of this  
31 article within 5 years of a prior conviction of any offense under that subsection shall  
32 be required by the court to:

33                                   (i)       Undergo a comprehensive alcohol abuse assessment; and

34                                   (ii)       If recommended at the conclusion of the assessment, participate  
35 in an alcohol program as ordered by the court that is:



1 (3) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER  
2 PENALTIES FOR VIOLATION OF § 21-902(D) OF THIS ARTICLE PROVIDED UNDER THIS  
3 SUBSECTION, A PRIOR CONVICTION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE,  
4 WITHIN 5 YEARS OF THE CONVICTION FOR A VIOLATION OF § 21-902(D) OF THIS  
5 ARTICLE, SHALL BE CONSIDERED A CONVICTION OF § 21-902(D) OF THIS ARTICLE.

6 (q) (1) Any person who is convicted of a violation of § 21-902(a) OR (D) of this  
7 article and who, at the time of the offense, was transporting a minor is subject to:

8 (i) For a first offense, a fine of not more than \$2,000 or  
9 imprisonment for not more than 2 years or both;

10 (ii) For a second offense, a fine of not more than \$3,000 or  
11 imprisonment for not more than 3 years or both; and

12 (iii) For a third or subsequent offense, a fine of not more than \$4,000  
13 or imprisonment for not more than 4 years or both.

14 (2) Any person who is convicted of a violation of § 21-902(b)[, §  
15 21-902(c), or § 21-902(d)] OR (C) of this article and who, at the time of the offense,  
16 was transporting a minor is subject to:

17 (i) For a first offense, a fine of not more than \$1,000 or  
18 imprisonment for not more than 6 months or both; and

19 (ii) For a second or subsequent offense, a fine of not more than  
20 \$2,000 or imprisonment for not more than 1 year or both.

21 (3) For the purpose of determining second or subsequent offender  
22 penalties provided under this subsection, a prior conviction of any provision of §  
23 21-902 of this article that subjected a person to the penalties under this subsection  
24 shall be considered a prior conviction.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2004.